

## § 1233.5

to minimize risks from fraud and to report fraud or possible fraud to FHFA in accordance with this regulation.

### § 1233.5 Protection from liability for reports.

As provided by section 1379E of the Safety and Soundness Act (12 U.S.C. 4642(b)), a regulated entity that, in good faith, submits a report pursuant to this part, and any entity-affiliated party, that, in good faith, submits or requires a person to submit a report pursuant to this part, shall not be liable to any person under any provision of law or regulation, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement) for such report, or for any failure to provide notice of such report to the person who is the subject of such report, or any other persons identified in the report.

### § 1233.6 Supervisory action.

Failure by a regulated entity to comply with this part may subject the regulated entity or the board members, officers, or employees thereof to supervisory action by FHFA, including but not limited to, cease-and-desist proceedings and civil money penalties.

## PART 1235—RECORD RETENTION FOR REGULATED ENTITIES AND OFFICE OF FINANCE

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AUTHORITY: 12 U.S.C. 4511(b), 4513(a), 4513b(a)(10) and (11), 4526.

SOURCE: 76 FR 33127, June 8, 2011, unless otherwise noted.

### § 1235.1 Purpose and scope.

The purpose of this part is to set forth minimum requirements for a record retention program for each regulated entity and the Office of Finance.

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The requirements are intended to further prudent management as well as to ensure that complete and accurate records of each regulated entity and the Office of Finance are readily accessible to FHFA.

### § 1235.2 Definitions.

For purposes of this part, the term—  
*Director* means the Director of FHFA, or his or her designee.

*Electronic record* means a record created, generated, communicated, or stored by electronic means.

*E-mail* means a document created or received on a computer network for transmitting messages electronically, and any attachments which may be transmitted with the document.

*Employee* means any officer or employee of a regulated entity or the Office of Finance.

*Federal Home Loan Bank* means a Bank established under the Federal Home Loan Bank Act; the term “Federal Home Loan Banks” means, collectively, all the Federal Home Loan Banks.

*FHFA* means the Federal Housing Finance Agency.

*Financing Corporation* means the entity established by the Competitive Equality Banking Act of 1987, as a mixed-ownership government corporation whose purpose is to function as a financing vehicle for the Federal Savings & Loan Insurance Corporation. The Financing Corporation has a board of directors consisting of the managing director of the Office of Finance and two Federal Home Loan Bank presidents.

*Office of Finance* means the Office of Finance of the Federal Home Loan Bank System.

*Record* means any information, whether generated internally or received from outside sources by a regulated entity or the Office of Finance, related to the conduct of the business of a regulated entity or the Office of Finance (which business, in the case of the Office of Finance, shall include any functions performed with respect to the Financing Corporation) or to legal or regulatory requirements, regardless of the following—

## Federal Housing Finance Agency.

## § 1235.4

(1) Form or format, including hard copy documents (*e.g.*, files, logs, and reports), electronic documents (*e.g.*, e-mail, databases, spreadsheets, PowerPoint presentations, electronic reporting systems, electronic tapes and back-up tapes, optical discs, CD-ROMS, and DVDs), and voicemail or recorded telephone line records;

(2) Where the information is stored or located, including network servers, desktop or laptop computers and handheld computers, other wireless devices with text messaging capabilities, and on-site or off-site at a storage facility;

(3) Whether the information is maintained or used on regulated entity or Office of Finance equipment, or on personal or home computer systems of an employee; or

(4) Whether the information is active or inactive.

*Record hold* means a requirement, an order, or a directive from a regulated entity, the Office of Finance, or FHFA that the regulated entity or the Office of Finance is to retain records relating to a particular issue in connection with an actual or a potential FHFA examination, investigation, enforcement proceeding, or litigation of which the regulated entity or the Office of Finance has received notice from FHFA or otherwise has knowledge.

*Record retention schedule* means a schedule that details the categories of records a regulated entity or the Office of Finance is required to retain and the corresponding retention periods. The record retention schedule includes all media, such as microfilm and machine-readable computer records, for each record category.

*Regulated entity* means the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, or any Federal Home Loan Bank; the term “regulated entities” means, collectively, the Federal National Mortgage Association and any affiliate thereof, the Federal Home Loan Mortgage Corporation and any affiliate thereof, and the Federal Home Loan Banks.

*Retention period* means the length of time that records must be kept before they are destroyed, as determined by

the organization’s record retention schedule. Records not authorized for destruction have a retention period of “permanent.”

*Safety and Soundness Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), as amended.

### § 1235.3 Establishment and evaluation of a record retention program.

(a) *Establishment.* Each regulated entity and the Office of Finance shall establish and maintain a written record retention program and provide a copy of such program to the Deputy Director of the Division of Enterprise Regulation, or his or her designee, or the Deputy Director for the Division of Federal Home Loan Bank Regulation, or his or her designee, as appropriate, within 180 days of the effective date of this part, and annually thereafter, and whenever a significant revision to the program has been made.

(b) *Evaluation.* Management of each regulated entity and the Office of Finance shall evaluate in writing the adequacy and effectiveness of the record retention program at least every two years and provide a copy of the evaluation to the board of directors and the Director.

### § 1235.4 Minimum requirements of a record retention program.

(a) *General minimum requirements.* The record retention program established and maintained by each regulated entity and the Office of Finance under § 1235.3 shall:

(1) Assure that retained records are complete and accurate;

(2) Assure that the form of retained records and the retention period—

(i) Are appropriate to support administrative, business, external and internal audit functions, and litigation of the regulated entity or the Office of Finance; and

(ii) Comply with requirements of applicable laws and regulations, including this part;

(3) Assign in writing the authorities and responsibilities for record retention activities for employees, including line managers and corporate management;